IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2122 OF 2006

Sachin Subhash Tigde — Petitioner
vs.
The State of Maharashtra & ors. — Respondents

Mr.A.R.Pitale for the petitioner.

Mr.R.M.Sawant, Government Pleader for the respondents 1 & 3.

Mr.R.A.Rodrigues for the respondent no.2.

CORAM : F.I.REBELLO &
ANOOP V. MOHTA,JJ.

DATED : 25th August, 2006

P.C.

Rule. Heard forthwith.

2. It is not necessary to go in the various facts as set out considering what has now emerged. The petitioner pursuant to the revaluation was declared to have obtained 15 marks in Constitutional Law in the VIth Semester. However, while issuing the certificate on 4th February, 2005, the petitioner was shown as having been exempted in Family Law and having failed in Constitutional Law. In the meantime the petitioner appeared for the VIIth & VIIIth Semester and was declared to have passed.

3. The petitioner was admitted for the IXth Semester. However, it was found out that the petitioner in fact has not passed VIth Semester and as such his admission was cancelled pursuant to which he has approached this Court. The Ordinance of University would require that no student can appear for the IXth and Xth Semesters unless the student clears the VIth semester. The respondents naturally relied on this Ordinance for the purpose of passing the order.

4. We, however, find that the petitioner was on the bonafide impression that he was exempted in Family Law and that he had passed the exam of Constitutional Law, on revaluation. There was admittedly a mistake in the mark-sheet issued to him on 4th February, 2005. Had the petitioner been informed that he had failed in Family Law, the petitioner could have taken steps to have appeared either in the April/May, 2005 or in December, 2005 in the paper of Family Law. It is in these circumstances we feel and on the peculiar facts of this case, that the petitioner should be allowed to prosecute the studies in the IXth semester while permitting him to appear as a one time measure in the ensuing examination in November, 2006 for the paper in Family Law. If the petitioner does not pass the paper in Family law in the examination to be held in November, 2006, the natural consequences will follow till the petitioner passes the

examination of Family law.

5. In these circumstances, we direct the respondents to withdraw the letter/order cancelling his admission and to treat the petitioner as continuing to prosecute his studies. We make it clear that this has been done on the peculiar facts of the present case and not to be treated as a precedent.

6. Rule is made absolute in the above terms. No order as to costs.

7. Respondents waive service.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA,J.)